

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 89-602-W/S - ORDER NO. 90-848

SEPTEMBER 5, 1990

[illegible]

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Petition for Rehearing and Reconsideration of Order No. 90-651 issued in the instant docket and dated July 16, 1990. The Petition was filed on behalf of Steven W. Hamm, the Consumer Advocate for the State of South Carolina (the Consumer Advocate). The Consumer Advocate alleges several errors on the part of the Commission in Order No. 90-651.

Specifically, the Consumer Advocate alleges that the Commission erred in authorizing a rate increase without requiring the Company to justify its operating expense level with adequate findings and substantial evidence; that the Commission failed to base its approval of an increase in property and real estate taxes on sufficient findings and substantial evidence; and that the Commission erred in approving a plant impact fee for both water and sewer customers.

The Commission has considered the allegations of error contained in the Petition filed on behalf of the Consumer Advocate and finds that the Commission's decision is fully supported in law, logic and fact and should not be reconsidered, reheard or modified in any way.

The Commission fully considered the evidence of the record and made sufficient findings thereon.

As to the allegation that the Commission authorized an increase in rates "without requiring the Company to justify its operating expense level with adequate findings and substantial evidence," the Consumer Advocate cites S.C. Code Ann. §1-23-250 as one of its authorities. The Commission finds no such statute in the Administrative Procedures Act. Assuming, arguendo, that the Consumer Advocate meant to cite §1-23-350, the Commission's Order meets that standard. As noted in the Consumer Advocate's Petition, in reaching its "conclusion" the Commission "relied" on the testimony of Witness Deaver. Therefore, the standard of § 1-23-350 has been met. The Company, the Staff, and the Consumer Advocate presented testimony as to the appropriate level of expenses for United Utility. The Commission considered each position in making its separate adjustment for each expense item that was contested by the parties.

The Consumer Advocate does not explicitly state which expense items under administrative and general expenses it finds excessive; therefore, the Commission cannot examine the evidence and findings of the particular items. However, the Commission's decision does reflect a reliance on the substantial evidence on the record and includes specific findings.

The Consumer Advocate takes issue with the Commission's adjustment to operating taxes of \$12,241 which reflects an increase

in property and real estate taxes assessed by the South Carolina TaxCommission. The Consumer Advocate alleges the Commission failed to base this approval on sufficient findings and substantial evidence of the record. The Commission disagrees with the Consumer Advocates allegation and its interpretation of the Commission's Order No. 90-651 at 17.

The Company supplied a hearing exhibit which calculated the new tax under the new assessment procedure and included copies of the property tax return for each county in which it operates. See, Hearing Exhibit 3, Schedule 11. Based upon this documentary evidence and the testimony of witness Wenz, the Commission found that the Company would be paying more taxes because of the new assessment procedure. It is evident from the exhibits as well as the testimony of witness Wenz that United will be paying this increased tax beginning in the tax year 1990. The increased property and real estate taxes are known and measurable. Moreover, the Commission is of the opinion that the Consumer Advocate misconstrues the language of Order No. 90-651 at 17. The Company contended that there had been a change in the law regarding property tax assessments of utility property. The Commission only recognized that there had been an increase in the assessment and did not make a determination as to whether or not the law has changed.

Lastly, the Consumer Advocate contends that the Commission failed (1) to set forth sufficient findings on the plant impact, and (2) to

base its approval of the impact fee on reliable or substantial evidence, the Consumer Advocate points to the Company's response to the Consumer Advocate's first set of interrogatories, namely response 1-24, claiming that the response is inadequate. Besides the fact that neither the response nor the interrogatory are in evidence, the interrogatory merely requests "the amounts generated by the water service connection charge and the sewer service connection charge for calendar years 1988 and 1989, as well as for the test year." This does not even relate to the plant impact fee. However, a review of the financial information introduced by witness Wenz demonstrates that the purpose of the fee is to recover a portion of the investment made by the Company in providing the capacity needed to serve a single family equivalent unit. As the books of the Company in this case reflect, the investment in plant and equipment used and useful in serving customers, both present and future, is substantially greater than the amount recovered by the Company in the form of plant impact fees or sewer tap fees. Both the water and sewer tap fees and the plant impact fees are used to reduce the Company's rate base. As such, it has a ripple effect upon the Company's overall cost of operation and rate of return, lowering both. Because the Commission's policy is to reduce rate base by the amount of contributions in aid of construction, tap fees, plant impact fees and other forms of rate payer contributed capital, the Company, contrary to the Consumer Advocate's position, does not earn on these funds.

The Commission did rely upon the fact that the Company projects that it will make improvements to its system in the future. This simply adds credence to the reasonableness of the fee. Yet, the fee itself is provable by the substantial evidence of record which is currently known and measurable, that is, that the current investment of the Company in plant and facilities used and useful in providing services justifies a plant impact fee per single family equivalent of at least \$400 for both water and sewer services.

The facts of this case support in full the present plant impact fee. It is accepted ratemaking methodology to return a portion or all of the capital invested by a utility company through the establishment of a charge such as a plant impact fee, which is designed to recover a portion of the cost incurred by the company in making the capacity available that is required to serve a single family equivalent unit. When the current plant impact fee is compared to the total investment now outstanding, it is clear to the Commission that the fee proposed is fair, reasonable, and fully supported by the evidence of record.

Additionally, the Consumer Advocate erroneously stated in its Brief that the Commission should rule on the "establishment" of the fee. The Commission pointed out that the fee had been previously approved in a prior proceeding, and the Company was not seeking an adjustment in the instant Docket. The Consumer Advocate disagrees with the Commission's position that if a rate or charge has

previously been found just and reasonable and is not included in rates and charges proposed to be increased by the Company, then the presumption of the validity of the Commission's previous decision should remain as such.

The Consumer Advocate would have a utility provide support for every single rate previously approved whether it is sought to be adjusted or not. This is quite a burden to place on a utility whether it be a water or sewer utility or an electric or telecommunications utility which may have a myriad of rates and charges that may not be involved in a general rate increase.

The Commission is of the opinion that a rate not a part of a general increase is not required to be supported by the utility as a matter of course. If, however, the rate is challenged and evidence is presented which challenges the validity or reasonableness of the rate, then the Company may be obliged to support its rate. Such was not the case here. While the Consumer Advocate asked questions concerning the rate both through interrogatories and through cross examination, the Consumer Advocate presented no evidence which would refute the validity of the previously approved plant impact fee.

Based upon the foregoing reasons, the Commission herein denies the Petition for Rehearing or Reconsideration of Order No. 90-651 filed on behalf of the Consumer Advocate.

DOCKET NO. 89-602-W/S - ORDER NO. 90-848
SEPTEMBER 5, 1990
PAGE 7

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:

Deputy 
Executive Director

(SEAL)